UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,144	02/07/2002	Lutz Maas	20294.004	1442

21878 7590 05/13/2004

KENNEDY COVINGTON LOBDELL & HICKMAN, LLP
214 N. TRYON STREET
HEARST TOWER, 47TH FLOOR
CHARLOTTE, NC 28202

EXAMINER	
DEL SOLE, JOSEPH S	

ART UNIT	PAPER NUMBER
1722	

DATE MAILED: 05/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/072,144	MAAS ET AL.	
	Examiner	Art Unit	
	Joseph S. Del Sole	1722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 February 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 2* is/are rejected.

7)☒ Claim(s) *3-12* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Oath/Declaration

1. The substitute Declaration submitted 2/9/2004 is proper and accepted.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1 and 2 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 7 and 8 of copending Application No. 10/194,652 (published as US2003/0025239) in view of Linz (5,536,157).

Claims 1, 7 and 8 of US2003/0025239 teach a device for melt extrusion spinning and cooling of a filament bundle (claim 1, lines 1-2) by a spinning device having an annular spinning jet (claim 1, lines 1-2) and a cooling device arranged below the spinning device (claim 1, line 5), wherein the cooling device has a blowing chamber for directing a coolant stream onto the filament bundle and a holding device for engaging the blowing chamber between the spinning device and the holding device in an

operating position of the blowing chamber substantially centrally to the spinning jet (claim 1, lines 6-11), the blowing chamber being displaceable axially relative to the holding device between the operating position and a replacement position (claim 1, lines 12-16 and claim 7, lines 1-3); and the blowing chamber and the holding device are detachably connected to one another to facilitate replacement of the blowing chamber in the replacement position (claim 8, lines 1-3).

Claims 1, 7 and 8 of US2003/0025239 fail to teach the blowing chamber being of cylindrical shape extended in the axial direction with a porous annular jacket.

Linz teaches a blowing chamber of cylindrical shape extended in the axial direction with a porous annular jacket (Fig 1, #4) for the purpose of dispensing air to the filaments through multiple orifices (col 4, lines 39-54) such that the melt-spun yarn has uniform molecular orientation (col 1, lines 60-67).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of claims 1, 7 and 8 of US2003/0025239 with a cylindrically shaped blowing chamber extended in the axial direction with a porous annular jacket as taught by Linz because it enables uniform molecular orientation of cooled spun filaments.

This is a provisional obviousness-type double patenting rejection.

4. Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of copending Application No. 10/216,463 (published as US2003/0039710) in view of Linz (5,536,157).

Claims 1 and 2 of US2003/0039710 teach a device for melt extrusion spinning and cooling of a filament bundle (claim 1, line 1) by a spinning device having an annular spinning jet (claim 1, lines 2-3) and a cooling device arranged below the spinning device (claim 1, lines 4-5), wherein the cooling device has a blowing chamber for directing a coolant stream onto the filament bundle and a holding device for engaging the blowing chamber between the spinning device and the holding device in an operating position of the blowing chamber substantially centrally to the spinning jet (claim 1, lines 4-10), and the blowing chamber being displaceable axially relative to the holding device between the operating position and a replacement position (claim 1, lines 11-17 and claim 2, lines 1-4).

Claims 1 and 2 of US2003/0039710 fail to teach the blowing chamber being of cylindrical shape extended in the axial direction with a porous annular jacket.

Linz teaches a blowing chamber of cylindrical shape extended in the axial direction with a porous annular jacket (Fig 1, #4) for the purpose of dispensing air to the filaments through multiple orifices (col 4, lines 39-54) such that the melt-spun yarn has uniform molecular orientation (col 1, lines 60-67).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of claims 1 and 2 of US2003/0039710 with a cylindrically shaped blowing chamber extended in the axial direction with a porous annular jacket as taught by Linz because it enables uniform molecular orientation of cooled spun filaments.

This is a provisional obviousness-type double patenting rejection.

Response to Arguments

5. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

6. Claims 1-2 would be allowed following a terminal disclaimer as set forth above.

7. Claims 3-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach or suggest a device having a blowing chamber of cylindrical shape extended in the axial direction with a porous annular jacket below a spinning device for directing a coolant stream onto the filament bundle and a holding device fore engaging the blowing chamber between the spinning device and the holding device, the blowing chamber being displaceable axially relative to the holding device between the operating position and a replacement position.

Correspondence

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Joseph S. Del Sole whose telephone number is (571) 272-1130. The examiner can normally be reached on Monday through Friday from 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wanda Walker, can be reached at (571) 272-1151. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for both non-after finals and for after finals.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from the either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll-free).

joseph S. del Sole

J.S.D.
May 10, 2004